IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2009

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P.No.9105 of 2003

D.Govindasamy .. Petitioner

Vs.

The District Collector,
Perambalur District,
Perambalur. .. Respondent

The Writ Petition has been filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 19.02.2003 on the file of the respondent and quash the same and consequently direct the respondent to grant relief to the petitioner from the Prime Minister's Relief Fund.

For Petitioner : Mrs.Akhila for Mr.G.R.Swaminathan
For Respondent : Mr.P.Gurunathan,
Government Advocate for R1

ORDER

"வானிலை அறிக்கை"

" மழையோ லேசான மழையோ" பெய்யலாம், பல இடங்களில் கனமழையோ இடியுடன் கூடிய மழையோ பெய்யவும் வாய்ப்புண்டு."

"Rain or thunder shower or isolated rain would occur at many places— This is usual weather report issued by Meteorological Centre. Many times it was proved to be correct or otherwise also. We experience unexpected heavy rain fall which could not be forecast by Weather Centre. Expecting heavy rain as forecast by the center, schools, some times used to be closed. However that day would turn out to be a bright and clear sunny day. Therefore we cannot predict the events of nature. That is the reason why they are called "Acts of God".(natural events)

As per Wharton's Law Lexicon "Act of God" mean, a direct, violent, sudden and irresistible act of nature, which could not, by

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any reasonable care, have been foreseen or resisted.

As per R.F.v Henstone Salmond on the Law of Torts, 330 Edn. 1977 "Act of God" means, an overwhelming, un-preventable event caused exclusively by forces of nature, such as an earthquake, flood, or tornado. The definition has been statutorily broadened to include all natural phenomena that are exceptional, inevitable and irresistible, the effects of which could not be prevented or avoided by the exercise of due care of foresight, Black Law Dictionary, 7th Edition.

It may be defined to be any accident, due directly and exclusively to natural causes without human intervention, which by no amount of foresight, pains or care, reasonably to have been expected, could have been prevented. The general characteristics of such perils are very intelligble.

2. It is said monsoonal and other then weather additions in India are unstable. A person who lost his wife due to "Act of Nature" or "Act of God" knocks the doors of this court challenging the order dated 19.09.2002 passed by the respondent rejecting petitioner's claim from the Prime Minister's Relief Fund for the death of his wife who was struck by thunder and died on 23.09.1998. The petitioner gave a representation to the State and Central Government seeking exgratio payment from the State Government and also from Prime Minister's Relief Fund.

3. The case of the petitioner is that his wife died as a result of thunder bolt on 23.9.1980 and he applied for relief under "Prime Minister's relief fund". He contends that though he got nominal relief from the State Fund, he did not get any relief from the Central Fund namely Prime Minister's Relief Fund. In his representation dated 06.11.2000 and 06.08.2001 the petitioner gave list of persons, who were granted similar relief from the Prime Minister's Relief Fund as well as from the State.

4. As stated above, the petitioner got relief only from the State Government and his representation was not considered for grant of relief from the Prime Minister's Relief Fund. Therefore the petitioner approached this Court in Writ Petition No.24585 of 2002 which was disposed of by this Court on 20.06.2002 directing the respondent to consider the petitioner's representation dated 06.11.2000 and 06.08.2001.

5. Pursuant to the order of this Court, the respondent recommended the petitioner's case for grant of relief under Prime Minister's Relief Fund for the death of his wife through a communication bearing No.Na.Ka.C2/22569/2002 dated 19.09.2002. However, subsequently by an order dated 19.02.2003, the petitioner's claim was rejected by the respondent stating that relief was granted

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upto 1999 only to those who died during the North East Monsoon season namely October to December alone and as the petitioner's wife died on 23.09.1998, the same was rejected. The said order is being challenged before this court.

6. The petitioner pointed out through his representation dated 06.11.2000 and 06.08.2001 that similarly placed persons got relief both from State Government as well as from the Prime Minister's Relief Fund. Apart from that, it is seen from the respondent's communication dated 19.09.2002 that his claim for payment of exgratia under Prime Minister's Relief Fund was recommended and the same is extracted as follows:

பெரம்பூர் மாவட்டம், ஊடையார்பாளையம் வட்டம், பிராஞ்சேரி மஜ"ரா மணக்கரை கிராமத்தைச் சேர்ந்த கோவிந்தசாமி என்பவரது மனைவி திருமதி. வசந்தா என்பவர் 23.9.98 அன்று இடிதாங்கி இறந்தது தொடர்பாக ஐடி இறந்துபோன திருமதிவசந்தா என்பவருக்கு பாரத பிரதமர் நிவாரணத் தொகை வழங்க கோரி சென்னை உயர் நீதிமன்றத்தில் வழக்கு தொடர்ந்தது தொடர்பாக மேற்படி இறந்துபோன திருமதி. வசந்தா என்பவருக்கு பாரத பிரதமர் நிவாரண நிதியில் உதவித்தொகை பெற தகுதியானவர் என இவ்வலுவலக ந.க.சி2/22569/2002 நாள் . 19.9.2002 ல் பரிந்துரை செய்யப்பட்டுள்ளது என்ற விவரம் இதன் மூலம் மனுதாரருக்கு தெரிவிக்கப்படுகிறது.

7. Subsequently, by the impugned order dated 19.09.2003, the petitioner's claim was rejected stating that the petitioner's wife died on 23.09.1998 which did not fall during the period of North East Monsoon, namely October,November and December and that yardstick was in vogue till 1999. The said order reads as follows:

பெரம்பூர் மாவட்டம், ஊடையார்பாளையம் வட்டம், பிராஞ்சேரி மஜ"ரா மணக்கரை கிராமத்தைச் சேர்ந்த கோவிந்தசாமி என்பவரது மனைவி திருமதி. வசந்தா என்பவர் 23.9.98 அன்று இடிதாங்கி இறந்தது தொடர்பாக ஐடி இறந்துபோன திருமதிவசந்தா என்பவருக்கு பாரத பிரதமர் நிவாரணத் தொகை வழங்க கோரி விண்ணப்பித்துள்ளார். 1999 வரை வட கிழக்கு பருவ மழைக்காலமான அக்டோபர் முதல் டிசம்பர் வரையில் உள்ள மூன்று மாதங்களில் இறப்பவருக்கு மட்டுமே பாரதப் பிரதமர் நிதி வழங்கப்பட்டு வருகிறது. திருமதி வசந்தா என்பவர் 23..9.1998ல் இறந்துள்ளதால் அவருக்கு நிவாரணம் வழங்க இயலாது என்பதை தெரிவித்துக் கொள்கிறேன்.

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The said reason is not supported by any G.O or Circular etc., and cannot be accepted by this Court. The natural Calamities may strike at any person, at any time and the respondent cannot contend that the relief could be given to those who are affected by natural calamity occuring during the period of October to December alone. The said stand is very unreasonable and devoid of merits. Even assuming that the relief could be given only for the mishappenings occurring during the North East Monsoon, the crucial date namely 23.09.1998 cannot be

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termed as a non-Monsoon period. The monsoon can set in a week or two weeks ahead or delayed than normal season as it varies year to year. The Meterological Department forecast is only approximate and is not accurate. Nobody can predict and fix any time frame for a natural event to happen whether it is for monsoon or thunder bolt. Even Meteorological Department is unable to forecast exactly as to when the Monsoon starts/sets in and when the Monsoon ends. Apart from that, nature itself gets changed due to global warming, pollution, holes in the ozone layer, destruction of forests etc. Scientists say that the movement of earth itself is getting changed. When natural events themselves are getting changed/altered, the denial of relief to the petitioner based on uncertain event (thunder bolt) during a particular period (October to December) is irrational and unjustified. Therefore, the respondent cannot fix a period viz., October to December as Monsoon period and grant relief to those who are affected during that period and deny the relief to the petitioner for his wife's death which was due to thunder bolt.

8. It is stated in the impugned order that upto 1999, relief from prime minister's relief fund was given to those victims who died during October to December whereas petitioner's wife died on 23.09.1998. There is no rule or government order produced to support the impugned order. Even if there is any order, rule etc. which prescribes certain conditions for grant of relief, it should be interprete very liberally to cover every victim of natural disaster irrespective of period of occurrence. The conditions can not defeat the purpose behind the grant of relief. Therefore this court holds that for granting relief, occurrence of the event alone should be the basis and the time of occurrence is immaterial.

9. The following material is down loaded from Internet which speaks about Prime Minister's Natural Relief Fund:-

> "In pursuance of an appeal by the then Prime Minister, Pt. Jawaharlal Nehru in January, 1948, the Prime Minister's National Relief Fund (PMNRF) was established with public contributions to assist displaced persons from Pakistan. The resources of the PMNRF are now utilized primarily to render immediate relief to families of those killed in natural calamities like floods, cyclones and earthquakes, etc. and to the victims of the major accidents and riots. Assistance from PMNRF is also rendered for medical treatment like heart surgeries, kidney transplantation, cancer treatment, etc. The fund consists entirely of public contributions and does not get any budgetary support. The corpus of the fund is invested with banks in fixed deposits. Disbursements are made with the approval of the Prime

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Minister."

Statement of Income and Expenditure for last five years is as under:

Year	Total Income (Fresh contributions, Interest Income, Refunds)B/F Rs.444.91 brought forward	Total Expenditure (Relief for Riots, Flood, Drought, Earthquakes, Cyclone, Tsunami, Medical etc.)	Balance
2004-05 (A)	968.78	101.6	1312.08
2005-06 (A)	278.06	109.21	1480.94
2006-07(A)	144.32	181.89	1443.37
2007-08 (A)	151.9	113.02	1482.25
2008-09 (P)	336.41	214.84	1603.82

The Prime Minister's Relief Fund is to give relief to the persons who are affected by natural calamities and who are in need of medical treatment etc. That being so, the said relief cannot be denied saying that thunder bolt death did not occur during monsoon period. It is a fact that the petitioner's wife died and the same is accepted by the respondent. In fact by communication dated 19.09.2002, the respondent informed the petitioner that for the death of his wife Mrs.Vasantha on 23.09.1998 by thunder strike, recommendation for the relief was made through respondent's communication bearing No.Na.Ka.C2/225692 dated 19.09.2002. When the calamities occur, as pointed out by the petitioner, it is the duty of the respondent to pay compensation to the petitioner without discrimination especially when similarly placed persons were granted relief.

10. "Thunder" is natural happening or it may be called "Act of God". When the thunder strikes a person, death is a natural consequence. It is not as if only those struck by thunder during monsoon (between October to November) alone die or injured and not others. The reason given in the impugned order cannot be sustained. It is very unfortunate that unreasonable, highly illogical, arbitrary norms are prescribed for grant of relief to the victims.

11. It is seen that the petitioner's wife died leaving behind the petitioner and their four children including three daughters. The role of mother in bringing up the children is very essential and that too for daughters, the love and affection and care of mother are essential. Mother's role is very important during attainment of puberty as well as during delivery. Petitioner's children lost their mother's care, love and affection throughout their life and the same

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cannot be estimated in terms of money. The loss is irreparable and no one could play the role of "mother". That is the reason why an ancient Tamil poem describes "mother and father" as first god " அண்னையும் பிதாவும் முன்னறி தெய்வம் "

12. It is the duty of the Government to safeguard the life and liberty of the people as guaranteed under Article 21 of the Constitution of India. If death occurs to a citizen due to a natural calamity, the Government whether it is State or Central Government, is expected to come forward to "CONSOLE-COMPORT-COMPENSATE" the family members of the victim and the Government should avoid shirking its responsibility based on arbitrary and imaginary reasons.

13. Though the relief sought for is not a statutory relief and only discretionary, the petitioner alone cannot be denied especially, when similarly placed persons were granted reliefs. Apart from that, there is no reference about any Rule/G.O, Notification or Circular etc., to the effect that the relief can be given only to the dependents of the victims, who died during North East Monsoon namely October to December alone. In the absence of any G.O, Notification, Rule, Circular, the impugned order cannot be sustained. Accordingly, the impugned order is quashed and the respondent is directed to pay the relief amount to the petitioner as paid to the similarly placed persons within six weeks from the date of receipt of a copy of this order.

14. Accordingly the writ petition is allowed. No costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

ssj/vk
To

The District Collector,
Perambalur District,
Perambalur.

+1cc to Mr.G.R.Swaminathan, Advocate Sr 65974
+1cc to Govt. Pleader Sr 66156

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